IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

THURSDAY, THE 22ND MARCH 2007 / 1ST CHAITHRA 1929

WA.No. 668 of 2007()

AGAINST THE JUDGEMENT/ORDER IN WPC.6547/2007 Dated 02/03/2007
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APPELLANT: RESPONDENT 2 TO 7
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1. THE MAHATMA GANDHI UNIVERSITY
REPRESENTED BY ITS REGISTRAR,
KOTTAYAM.

2. THE BOARD OF STUDENTS GRIEVANCES,
REPRESENTED BY THE VICE CHANCELLOR OF
MAHATMA GANDHI UNIVERSITY, WHO IS THE
CHAIRMAN OF THE BOARD, KOTTAYAM.

3. THE CONTROLLER OF EXAMINATIONS
MAHATMA GANDHI UNIVERSITY, KOTTAYAM.

4. THE PROFESSOR-IN-CHARGE OF DIRECTOR
SCHOOL OF MEDICAL EDUCATION,
MAHATMA GANDHI UNIVERSITY,
GANDHI NAGAR, KOTTAYAM.

5. THE PRINCIPAL-IN-CHARGE
SCHOOL OF MEDICAL EDUCATION
MAHATMA GANDHI UNIVERSITY
GANDHI NAGAR, KOTTAYAM.

6. THE VICE CHANCELLOR
MAHATMA GANDHI UNIVERSITY
GANDHI NAGAR, KOTTAYAM.

BY ADV. SRI.V.A.MUHAMMED, SC, M.G.UNIVERSITY

RESPONDENTS: PETITIONERS 1 TO 3 AND THE 1ST RESPONDENT
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1. **SRI. SHERIN.S, AGED 21 YEARS,**
   S/O SHAMSUDEEN C.K, CHULLAMALATHAZHATHU HOUSE,
   PERUMPALLOOR P.O., MUVATTUPUZHA.

2. **SRI. ROBIN PAUL, AGED 20 YEARS,**
   S/O PAUL, PALATTY HOUSE,
   MOOKKANNUR P.O.

3. **SRI. SHAFEEK USUF, AGED 20 YEARS,**
   S/O YOOSUF KUTTY, SANI MANZIL,
   ATHIRAMPUZHA P.O., KOTTAYAM.

4. **THE STATE OF KERALA REPRESENTED BY THE**
   SECRETARY TO GOVERNMENT,
   PUBLIC HEALTH DEPARTMENT,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

BY ADV. SRI.PEEYUS A.KOTTAM FOR R1 TO R3
SRI.S.DILEEP (KALLAR)
GOVT.PLEADER SMT.K.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 22/03/2007 ALONG WITH WA NO.688 OF 2007 AND WA NO.702 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & T.R.RAMACHANDRAN NAIR, JJ.

W.A.Nos. 668, 688 & 702 OF 2007

Dated 22nd March, 2007

JUDGMENT

Koshy,J.

W.A.Nos.668 and 688 of 2007 are filed against the interim orders of the learned Single Judge. Whereas, W.A.NO.702 of 2007 is filed against the final judgment of the learned Single Judge with respect to similarly placed persons in another Writ Petition. Petitioners in that writ petition are accused persons in a criminal case in relation to an alleged occurrence on 21/10/2005, in the premises of an educational institution. Following Ext.P1 F.I.R., investigation has been completed and final report has been obtained and the matter is pending before the Sessions Court. They are charged with the offences punishable under the Indian Penal Code as well as Kerala Prohibition of Ragging Act, 1998. Disciplinary proceedings against the petitioners are also pending and they were suspended by order dated 23/11/2005. By Ext.P4 judgment, this court directed that any disciplinary proceedings against the petitioners be completed and the pendency of the criminal case shall not stand in the way of disciplinary proceedings. However, more than one year and four months have elapsed and respondent students are still

under suspension. The disciplinary proceedings are not finalised so far. The reason is that sessions case is pending. Even in Ext.P4 it is stated that disciplinary proceedings has to be completed notwithstanding the pendency of the criminal proceedings. But, the Syndicate decided to continue the suspension for another six months with effect from 23.11.2006. Learned Single Judge found that the above is not in conformity with Ext.P4 judgment. There is no justification for continuing the enquiry without a decision for more than one year and four months. If they are found innocent finally, how can University compensate their lost academic years. Any amount of monthly compensation will not suffice. So, considering the fact that they were under suspension pending enquiry for more than one year, the learned Single Judge in W.P.(C) No.1161 of 2007 directed as follows:

> "Under such circumstances, the decision of the Syndicate of the university in Ext.P5 to continue the petitioners under suspension for six months from 23/11/2006 is hereby quashed and it is directed that the petitioners will be permitted to attend the institution in question or in any other institutions administering the same academic course, as may be decided by the Vice Chancellor. This judgment does not, in any manner, interdict disciplinary proceedings against the students by the head of the institution. Let the needful

following the cancellation of suspension in terms of this judgment, be done, and the petitioners be permitted to undergo the course at the earliest, on production of a copy of this judgment."

It is submitted by the appellant University that implementation of the above direction will affect the discipline of the institution. But, the learned Judge only stated that petitioners will be permitted to attend the institution in question or in any other institutions administering the same academic course as may be decided by the Vice Chancellor. The ball is still in the court of Vice Chancellor. It is submitted that some more time is needed to implement the judgment. The academic year is coming to a close. Therefore, an expeditious disposal is necessary. In the above circumstances, we give 10 days more time from today to implement the judgment and interim orders challenged.

The writ appeals are disposed of accordingly.

J.B.KOSHY
JUDGE

T.R.RAMACHANDRAN NAIR
JUDGE

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